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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,650	03/04/2002	Barry Bond	MSI-779US	6104
22801	7590	03/31/2008		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER	
			NGUYEN, CINDY	
			ART UNIT	PAPER NUMBER
			2161	
			MAIL DATE	DELIVERY MODE
			03/31/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/090,650

Applicant(s)

BOND ET AL.

Examiner

CINDY NGUYEN

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2161

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to communication filed 03/11/08.

The indicated allowability of claims 1, 3-8, 10-15 are withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Regarding claims 1, 3-8 and 10-15, a computer-readable medium carrying one or more sequences of Instructions for executing transactions is recited in the claim. "Computer-readable medium" as defined in the specification (see paragraph 0141, lines 7-9) communication media includes wired media such as a wired network or direct wired connection and wireless media such as acoustic, RF, infrared and other wireless media. A signal encoded with functional descriptive material does not fall within any of the categories of patentable subject matter. Therefore, claims 1, 3-8 and 10-15 are not statutory (As set forth in § 101, a claimed signal is clearly not a process under § 101 because it is not a series of steps. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result, and does not fit within the definition of a machine. A claimed signal is not matter, but a form or energy, and therefore is not a composition of matter or product).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodrov (US 6802006) in view of <http://www.ssw.uni-linz.ac.at/Teaching/Lectures/Sem/2001/Literatur/FileFormatSpec.doc> (hereafter Lecture).

Regarding claim 1, Bodrov discloses: A computer-readable medium having computer-executable modules comprising:

a file locator configured to locate an executable image on a computer media (col. 4, lines 34-42, Bodrov);

a memory-mapper configured to open the executable image from the computer media and read it into a computer memory (col. 208, fig. 2 and corresponding text, Bodrov);

an importer configured to find a list of executable image names to load (col. 4, lines 61 to col. 5, lines 5, Bodrov);

a binder configured to link multiple executable images together, such images being those of the list of executable image names ((col. 4, lines 15-28, Bodrov);

an exporter configured to build a representation of program modules that an executable image exports (col. 5, lines 15-18, Bodrov);

Bodrov is silent to disclose: a file-format recognizer configured to recognize the file format of the executable image from amongst a database file format definition, wherein the database is extensible so that additional file format definitions may be added to the database of multiple file format definitions. On the other hand, Lecture discloses: a database of multiple file format definitions a file-format recognizer configured to recognize the file format of the executable image from amongst a database file format definition (i.e., the runtime recognizes managed native code and unmanaged native code... see page 6, lines 16-21, Lecture). Wherein the database is extensible so that additional file format definitions may be added to the database of multiple file format definitions as (see section "a combination of IL and Native code" page 6 and section "2.1.4 storing runtime data in sections", page 13 and 2.3.3 "thread local storage table" Lecture). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include a database of multiple file formats in the system of Bodrov as taught by Lecture. The motivation being to provide the identification system store runtime data in sections, the runtime defines several types of data formats that are used by the engine to execute code, each type of data may be placed in any part of the PE image so long as the section the data is placed in has the same attributes as required see page 13, storing runtime data in sections.

Regarding claim 3, all the limitations of this claim have been noted in the rejection of claim 1 above. In addition, Bodrov/ Lecture discloses: wherein the importer is further configured to direct the loading of multiple executable images of the list of executable image names to load (col. 4, lines 15-28, Bodrov).

Regarding claim 4, all the limitations of this claim have been noted in the rejection of claim 1 above. In addition, Bodrov/ Lecture discloses: wherein the file-format recognizer is further configured to select one or more of a group of available pluggable sub-loaders is capable of loading the recognized file format of the executable image (col. 3, lines 58-67, Bodrov).

As per claims 5, 6 and 7, all the limitations of these claims have been noted in the rejection of claim 1. It is therefore rejected as set forth above.

Regarding claim 8, all the limitations of these claims have been noted in the rejection of claim 1. In addition, Bodrov/ Lecture discloses: A computer-readable medium having computer-executable modules comprising: a searcher configured to search a computer media for an executable image for loading (col. 7, lines 12-50, Bodrov);

a format recognizer configured to the format of the executable image (col. 4, lines 43-60, Bodrov);

a memory-mapper configured to load and map the executable image into memory based upon the format of the executable image (col. 208, fig. 2 and corresponding text, Bodrov);

a sub-loader configured to examine a data structure of the executable image to determine whether to load additional images (204 and corresponding text and col. 3m, lines 58-67, Bodrov);

Regarding claim 10, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Lecture discloses: wherein one or more modules of the

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medium are configured to be replaced with a replacement module without recompilation of one or more modules (see section 2.3.3 “thread local storage table”, page 18, Lecture).

Regarding claim 11, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Lecture discloses: wherein the memory-mapper is further configured to convert the executable image before mapping it into the memory (col. 6, lines 1-9, Bodrov).

Regarding claim 12, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Lecture discloses: wherein the memory-mapper is further configured to decrypt the executable image before mapping it into the memory (col. 4, lines 15-28, Bodrov).

As per claims 13, 14 and 15, all the limitations of these claims have been noted in the rejection of claim 8. It is therefore rejected as set forth above.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cindy Nguyen

/C. N./

Examiner, Art Unit 2161

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161